

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

LATWANDA EVANS

PLAINTIFF

VS.

CASE NO. 05-CV-1086

AUTOZONE STORES, INC., et al.

DEFENDANTS

ORDER

Plaintiff has filed a motion seeking permission to serve the Defendant Daniel Hollingsworth by publication, along with an affidavit in support of the motion. (Doc. Nos. 9 and 15, Ex. 1). The Defendant Autozone has responded opposing the motion. (Doc. No. 13). The matter is ripe for consideration.

On September 20, 2005, the Plaintiff filed this civil rights action against her former employer and various named and unnamed individual defendants. To date, the Plaintiff has been unable to locate Defendant Daniel Hollingsworth in order to serve him. Plaintiff asks the Court to allow her to serve this defendant by publication pursuant to Ark.R.Civ.P. 4(f).

Federal Rule of Civil Procedure 4(e) provides that service may be effected pursuant to the law of the state in which the district court is located. Arkansas Rule of Civil Procedure 4(f) provides that service may be made by publication of a warning order if it appears by affidavit that, after a diligent inquiry, the whereabouts of a defendant remains unknown. The requirements of Ark.R.Civ.P. 4(f) have been met in this case. Therefore, upon consideration, the Court finds that the Plaintiff's motion to serve the Defendant Daniel Hollingsworth by publication should be and hereby is **granted**.

Pursuant to the provisions of Ark.R.Civ.P. 4(f), Plaintiff shall serve Daniel Hollingsworth by warning order to be published in the El Dorado News-Times for two (2) consecutive weeks and mailed, along with a copy of the Complaint, to the Defendant at his last known address by U.S. Certified Mail, restricted delivery.

Plaintiff also moves the Court for an award of reasonable attorney's fees, costs and expenses. This request is **denied**.

IT IS SO ORDERED, this 21st day of June, 2006.

/s/Harry F. Barnes
Hon. Harry F. Barnes
United States District Judge